

MARY ANN SMITH
Deputy Commissioner
SEAN M. ROONEY
Assistant Chief Counsel
JUDY L. HARTLEY (State Bar No. 110628)
Senior Corporations Counsel
Department of Business Oversight
320 West 4th Street, Suite 750
Los Angeles, California 90013-2344
Telephone: (213) 576-7604
Facsimile: (213) 576-7181

Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	CRMLA LICENSE NO.: 413-1010
)	
THE COMMISSIONER OF BUSINESS)	STATEMENT OF FACTS IN SUPPORT OF
OVERSIGHT,)	ORDER TO DISCONTINUE VIOLATIONS
)	PURSUANT TO FINANCIAL CODE
Complainant,)	SECTION 50321 AND NOTICE OF INTENT
v.)	TO MAKE ORDER FINAL
)	
THE LENDING PARTNERS, LLC forced to do)	
business in California as GREENPATH)	
LENDING, LLC,)	
)	
Respondent.)	
)	

The Complainant, the Commissioner of Business Oversight (Commissioner) is informed and believes and based upon such information and belief, alleges and charges as follows:

I.

Introduction

1. The Lending Partners, LLC forced to do business in California as GreenPath Lending, LLC (TLP) is a residential mortgage lender licensed by the Commissioner pursuant to the California Residential Mortgage Lending Act (CRMLA) (Fin. Code Section §50000 et seq.). TLP has its principal place of business located at 5560 Tennyson Parkway, Suite 201, Plano, Texas 75024. TLP

1 has no branch locations under its CRMLA license. TLP employs mortgage loan originators in its
2 CRMLA business.

3 II.

4 Trust Account Violations

5 2. On or about March 13, 2017, the Commissioner, by and through staff, commenced a
6 regulatory examination of the books and records of TLP under the CRMLA (2017 regulatory
7 examination). The 2017 regulatory examination disclosed that TLP was (i) failing to properly
8 reconcile certain of its trust accounts in violation of Financial Code section 50314 and California
9 Code of Regulations, title 10, section 1950.314.1; (ii) commingling its own funds with trust funds in
10 violation of Financial Code section 50202, subdivision (a); and (iii) causing debit balances
11 (shortages) to exist in certain of its trust accounts in violation of California Code of Regulations, title
12 10, section 1950.314.6.

13 3. In 2017, TLP maintained the relevant trust account at JPMorgan Chase Bank; trust
14 account ending in 6110. A review of the trust account reconciliation and other trust accounting
15 documentation for January 31, 2017 disclosed that TLP had failed to properly reconcile the trust
16 account for the period ended January 31, 2017 in violation of Financial Code section 50314,
17 subdivision (a) and California Code of Regulations, title 10, section 1950.314.1 due to an overage of
18 funds in the trust account in the amount of \$10,412.46. An overage of monies in a trust account(s)
19 indicates the existence of company funds on deposit in a trust account, which constitutes
20 commingling in violation of Financial Code section 50202, subdivision (a), except as allowed to
21 prevent a debit balance.

22 4. On or about June 5, 2017, TLP was requested to provide its unaudited financial
23 statements, including the balance sheet, trial balance, bank statement for trust account 6110, bank
24 reconciliation for trust account 6110, and corresponding loan level subsidiary ledgers for the period
25 ended April 31, 2017. TLP did not provide the documents as requested, but instead on August 9,
26 2017, TLP provided the requested documents for the period ended July 31, 2017. A review of the
27 trust account reconciliation and other trust accounting documentation for July 31, 2017 disclosed
28 that TLP had again failed to properly reconcile the trust account in violation of Financial Code

1 section 50314, subdivision (a) and California Code of Regulations, title 10, section 1950.314.1 due
2 this time to a debit balance (shortage) of funds in trust account 6110 in the amount of \$3,142.89.
3 The manner in which TLP reconciles its trust accounts failed to detect individual loan accounts with
4 debit balances totaling \$3,142.89. The failure to detect debit balances in individual loan accounts
5 caused the escrow trust liability to be understated, and resulted in the trust account shortage.
6 California Code of Regulations, title 10, section 1950.314.6 prohibits debit balances in any loan or
7 servicing account maintained by CRMLA licensees. Section 1950.314.6 does allow CRMLA
8 licensees to advance funds on behalf of a loan or servicing account for purposes of payment of taxes,
9 insurance, and other payments, if such a payment is required and the account has insufficient funds
10 to its credit to cover such required payment.

11 **III.**

12 **Per Diem Interest Overcharges**

13 5. The 2017 regulatory examination further disclosed that in 3 of 30 funded loans
14 reviewed, or approximately 10%, TLP was charging the borrower per diem interest in excess of one
15 day prior to the disbursement of loan proceeds in violation of California Financial Code section
16 50204, subdivision (o). A California Additional Per Diem Interest Charge Disclosure was found in
17 the 3 loans with per diem interest overcharges. The disclosures were not prepared in accordance
18 with California Civil Code section 2948.5, subdivision (b) or were not applicable, and therefore were
19 not considered in calculating per diem interest charges. The per diem interest overcharges averaged
20 \$45.41 per loan. The range of per diem interest overcharges was between \$34.29 and 56.60. The
21 average number of days that interest was overcharged was 1.

22 6. On or about June 5, 2017, the Commissioner, based upon the findings of the 2017
23 regulatory examination, directed TLP to conduct a self-audit regarding per diem interest charges for
24 all loans originated from March 27, 2014 through October 26, 2015; the date TLP ceased originating
25 mortgage loans, make appropriate refunds, and submit a report as to the findings of the self-audit
26 (“self-audit report”). On or about July 14, 2017, TLP submitted its self-audit report to the
27 Commissioner. The self-audit report filed with the Commissioner, which covered the period from
28 March 11, 2014 to October 26, 2015, disclosed 37 per diem interest overcharges out of the 1,047

1 loans originated during that period.

2 7. From documentation submitted by TLP, the Commissioner believes that TLP has
3 made all the refunds for the per diem interest overcharges occurring during the period described in
4 paragraph 6 in addition to the overcharges described in paragraph 5 above.

5 8. The Commissioner found that TLP was overcharging per diem interest during the last
6 regulatory examination under the CRMLA that commenced in March 2013. Based upon the
7 findings of the 2013 regulatory examination, the Commissioner had instructed TLP to implement
8 such procedures as necessary to ensure that per diem interest was not overcharged in the future.

9 IV.

10 Conclusion

11 9. By reason of the foregoing, TLP has violated Financial Code sections 50202,
12 subdivision (a) and 50204, subdivision (o) and California Code of Regulations, title 10, sections
13 1950.314.1 and 1950.314.6.

14 10. Financial Code section 50321 provides in pertinent part:

15 If, after investigation, the commissioner has reasonable grounds
16 to believe that any licensee has violated its articles of incorporation or
17 any law or rule binding upon it, the commissioner shall, by written order
18 addressed to the licensee, direct the discontinuance of the violation. The
order shall be effective immediately, but shall not become final except
in accordance with the provisions of Section 50323.

19 11. Financial Code section 50323 provides:

20 (a) No order issued pursuant to Section 50321 or 50322 may become
21 final except after notice to the affected licensee of the commissioner's
22 intention to make the order final and of the reasons for the finding. The
23 commissioner shall also notify the licensee that upon receiving a
24 request the matter will be set for hearing to commence within 15 business
25 days after receipt. The licensee may consent to have the hearing
26 commenced at a later date. If no hearing is requested within 30 days
27 after the mailing or service of the required notice, and none is ordered
28 by the commissioner, the order may become final without hearing and
the licensee shall immediately discontinue the practices named in the
order. If a hearing is requested or ordered, it shall be held in accordance
with the provisions of the administrative Procedure Act (Chapter 5
(commencing with Section 11500) of Part 1 of Division 3 of Title 2 of

the Government Code), and the commissioner shall have all the powers granted under that act. If, upon the hearing, it appears to the commissioner that the licensee is conducting business in an unsafe and injurious manner or is violating its articles of incorporation or any law of this state, or any rule binding upon it, the commissioner shall make the order of discontinuance final and the licensee shall immediately discontinue the practices named in the order.

(b) The licensee has 10 days after an order is made final to commence an action to restrain enforcement of the order. If enforcement of the order is not enjoined within 10 days by the court in which the action is brought, the licensee shall comply with the order.

WHEREFORE, good cause showing, the Commissioner is issuing an Order to Discontinue Violations Pursuant to Financial Code Section 50321 and notifying The Lending Partners, LLC forced to do business in California as GreenPath Lending, LLC of the Commissioner's intention to make the order final.

Dated: October 23, 2017
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
Judy L. Hartley
Senior Corporations Counsel
Enforcement Division